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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/756,981	01/14/2004	Algis P. August	VAI.P027	3713
53556	7590	09/28/2005	EXAMINER	
OPPEDAHL & LARSON LLP- VAI			RAO, G NAGESH	
P.O. BOX 5068			ART UNIT	
DILLON, CO 80435-5068			PAPER NUMBER	
			1722	
DATE MAILED: 09/28/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/756,981	<b>Applicant(s)</b> AUGUST ET AL.	
	<b>Examiner</b> G. Nagesh Rao	<b>Art Unit</b> 1722	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) 7-11 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-6 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |  |
|--|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)            |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date ____ | 6) <input type="checkbox"/> Other: ____  |

*Election/Restrictions*

Restriction to one of the following inventions is required under 35 U.S.C.

121:

- I. Claims 1-6, drawn to a system for molding articles of low density polymer, classified in class 425.
- II. Claims 7-9, drawn to a method for molding an article, classified in class 264.
- III. Claims 10-11, drawn to an injection molded article, classified in class 428.

The inventions are distinct, each from the other because of the following reasons:

1. Inventions II and I are related as process and apparatus for its practice. The inventions are distinct if it can be shown that either: (1) the process as claimed can be practiced by another materially different apparatus or by hand, or (2) the apparatus as claimed can be used to practice another and materially different process. (MPEP § 806.05(e)). In this case the apparatus (i.e. a system) can be used to practice another and materially different process such as forming a glass bottle.

2. Inventions II and III are related as process of making and product made.

The inventions are distinct if either or both of the following can be shown: (1) that

the process as claimed can be used to make other and materially different product or (2) that the product as claimed can be made by another and materially different process (MPEP § 806.05(f)). In the instant case the product (i.e. injection molded article) can be made by the compression molding of a foam preform placed into the mold.

3. Inventions I and III are related as apparatus and product made. The inventions in this relationship are distinct if either or both of the following can be shown: (1) that the apparatus as claimed is not an obvious apparatus for making the product and the apparatus can be used for making a different product or (2) that the product as claimed can be made by another and materially different apparatus (MPEP § 806.05(g)). In this case the apparatus (i.e. a system) can make a glass bottle.

4. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art because of their recognized divergent subject matter, restriction for examination purposes as indicated is proper.

5. During a telephone conversation with Mr. Carl Oppedahl on 08/31/05 a provisional election was made with traverse to prosecute the invention of Group I, claims 1-6 drawn to a system for molding articles of low-density polymer.

Affirmation of this election must be made by applicant in replying to this Office

action. Claims 7-11 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

6. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.

3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

7) Claims 1-6 rejected under 35 U.S.C. 103(a) as being unpatentable over Larsson (US Patent No. 5,516,470) in view of Ma (US Patent No. 3,721,512).

Larsson 470 teaches a molding tool capable of being used in injection molding where as depicted in various embodiments (Figures 1-5) is a mold comprising a plurality of mold elements which are relatively movable between a closed position, for forming an enclosed cavity defining the shape of a said article, and an open position, capable of allowing removal of a said article formed by the molding cavity. The mold further comprising of a heating and cooling means with valves to adequately regulate heating and cooling flow applied to the mold elements forming the mold cavity and an injection orifice permitting injection therethrough into said enclosed cavity (See Cols 6-11 Lines 1-68).

Larsson 470 fails to teach the use of an extruder as the device injecting the material into the mold cavity. Although it is well known to commonly use an extruder when injecting thermoplastic material into a mold cavity.

Nonetheless Ma 512 pertains to an apparatus used for injection molding where as seen in Figure 1 a screw extruder is coupled to a mold cavity setup to

inject a material such as various types of polymers into the mold cavity for molding.

It would be obvious to one skilled in the art to modify the teachings of Larsson 470 with that of Ma 512 to ensure thermoplastic materials are properly injected into the mold cavity via a screw extruder means.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to G. Nagesh Rao whose telephone number is (571) 272-2946. The examiner can normally be reached on 9AM-5PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Duane Smith can be reached on (571) 272-1166. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

ROBERT DAVIS  
PRIMARY EXAMINER  
GROUP 1800 / 700

9/19/05

GNR